THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

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BOMBAY ACT No. XI OF 1947.[1]

[THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.]

[*15th April 1947.*]

Amended by Bom. 43 of 1948.
,, ,, ,, 74 of 1948.

An Act to regulate the relations of employers and employees, to make provision for settlement of industrial disputes and to provide for certain other purposes.

WHEREAS it is expedient to provide for the regulation of the relations of employers and employees in certain matters, to consolidate and amend the law relating to the settlement of industrial disputes and to provide for certain other purposes; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Industrial Relations Act, 1946.

Extent commencement and application.

2. (*1*) This Act extends to the whole of the Province of Bombay.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* specify.

Bom. XXV of 1938.

(*3*) In the areas in which the Bombay Industrial Disputes Act, 1938, was in force immediately before the commencement of this Act, this Act shall apply to the industries to which the said Act applied.

(*4*) The Provincial Government may by notification in the *Official Gazette* apply all or any of the provisions of this Act to all or any other industries, whether generally or in any local area, as may be specified in such notification.

Definition.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) " approved list " means the list of approved unions maintained by the Registrar under section 12 ;

(*2*) " approved union " means a union on the approved list ;

(*3*) " arbitration proceeding " means—

(*i*) any proceeding under this Act before an arbitrator,

(*ii*) any proceeding before a Labour Court, [2][a Wage Board] or the Industrial Court in arbitration ;

(*4*) " arbitrator " means an arbitrator to whom a dispute is referred for arbitration under the provisions of this Act and includes an umpire ;

(*5*) " association of employers " means any combination of employers recognised by the Provincial Government under section 27 ;

(*6*) " award " means any interim or final determination in an arbitration proceeding of any industrial dispute or of any question relating theerto ;

(*7*) " Board " means a Board of Conciliation appointed under section 7 ;

(*8*) " change " means an alteration in an industrial matter ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 209 ; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. XI.

[2] These words were inserted by Bom. 74 of 1948, s. 2 (*a*).

[1][(*8A*) 'closure' means the closing of any place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of an industrial dispute ;]

(*9*) "Commissioner of Labour" means an officer appointed by the Provincial Government for the time being to be the Commissioner of Labour ; and in respect of any of the powers and duties of the Commissioner of Labour that may be conferred and imposed on any person, includes such person ;

(*10*) "conciliation proceeding" means any proceeding held by a Conciliator or a Board under this Act ;

(*11*) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator ;

(*12*) "Court of Enquiry" means a Court constituted under section 100 ;

(*13*) "employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry, and includes—

(*a*) a person employed by a contractor to do any work for him in the execution of a contract with an employer within the meaning of sub-clause (*e*) of clause (*14*) ;

(*b*) a person who has been dismissed or discharged from employment on account of any dispute relating to a change in respect of which a notice is given or an application made under section 42 whether before or after his dismissal or discharge ;

(*14*) "employer" includes—

(*a*) an association or a group of employers ;

(*b*) any agent of an employer ;

(*c*) where an industry is conducted or carried on by a department of the Provincial Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of the department ;

(*d*) where an industry is conducted or carried on by or on behalf of a local authority, the chief executive officer of the authority ;

(*e*) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner of the undertaking ;

(*15*) "illegal change" means an illegal change within the meaning of sub-section (*4*) or (*5*) of section 46 ;

(*16*) "Industrial Court" means the Court of Industrial Arbitration constituted under section 10 ;

(*17*) "industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter ;

(*18*) "Industrial matter" means any matter relating to employment, work wages, hours of work, privileges rights or duties of employers or employees, or the mode, terms and conditions of employment, and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person ;

(*b*) all matters pertaining to the demarcation of functions of any employees or classes of employees ;

[1] This clause was inserted by Bom. 74 of 1948, s. 2 (*b*).

(*c*) all matters pertaining to any right or claim under or in respect of or concerning a registered agreement or a submission, settlement or award made under this Act ;

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole ;

(*19*) " industry " means—

(*a*) any business, trade, manufacture or undertaking or calling of employers ;

(*b*) any calling, service, employment, handicraft, or industrial occupation or avocation of employees ;

and includes—

(*i*) agriculture and agricultural operations ;

(*ii*) any branch of an industry or group of industries which the Provincial Government may by notification in the *Official Gazette* declare to be an industry for the purposes of this Act ;

(*20*) " Joint Committee " means a Joint Committee constituted under section 48 ;

(*21*) " Labour Court " means a Labour Court constituted under section 9 ;

(*22*) " Labour Officer " means an officer appointed to perform the duties of a Labour Officer under this Act ; and includes in respect of such powers and duties of the Labour Officer as may be conferred and imposed on him, an Assistant Labour Officer ;

(*23*) " local area " means any area notified as a local area for the purposes of this Act ;

(*24*) " lock-out " means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial, refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of—

(*a*) compelling any of the employees directly affected by such closing, suspension or refusal or any other employees of his, or

(*b*) aiding any other employer in compelling persons employed by him, to accept any term or condition of or affecting employment ;

(*25*) " member " means a person who is an ordinary member of a union and who has paid a subscription of not less than two annas per month :

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of three months or more next preceding such time ;

(*26*) " occupation " means such section of an undertaking as is recognised under section 11 to be an occupation ;

(*27*) " prescribed " means prescribed by rules made under this Act ;

(*28*) " Primary Union " means a union for the time being registered as a Primary Union under this Act ;

(*29*) " Qualified Union " means a union for the time being registered as a Qualified Union under this Act ;

(*30*) " registered union " means a union registered under this Act ;

(*31*) " Registrar " means a person for the time being appointed to be the Registrar of Unions under this Act ; and includes in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions ;

(*32*) " representative of employees " means a representative of employees entitled to act as such under section 30 ;

(*33*) " Representative Union " means a union for the time being registered as a Representative Union under this Act ;

(*34*) " schedule " means a scdedule appended to this Act ;

(*35*) " settlement " means a settlement arrived at during the course of a conciliation proceeding ;

[1][(*35A*) ' stoppage ' means a total or partial cessation of work by the employee in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of an industrial dispute ;]

(*36*) " strike " means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, where such cessation or refusal is in consequence of an industrial dispute ;

(*37*) " undertaking " means such concern in any industry as is recognised by the Registrar under section 11 ;

(*38*) " union " means a Trade Union of employees which is registered under the Indian Trade Unions Act, 1926 ; XVI of 1926.

[2][(*38A*) ' Wage Board ' means a Wage Board constituted under section 86A ;]

(*39*) " wages " means remuneration of all kinds capable of being expressed in terms of money and payable to an employee in respect of his employment or work done in such employment and includes—

(*i*) any bonus, allowances (including dearness allowance), reward or additional remuneration ;

(*ii*) the value of any house accommodation, light, water, medical attendance or other amenity or service ;

(*iii*) any contribution by the employer to any pension or provident fund ;

(*iv*) any travelling allowance or the value of any travelling concession ;

(*v*) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment ;

(*vi*) any gratuity payable on discharge.

CHAPTER II.

AUTHORITIES TO BE CONSTITUTED OR APPOINTED UNDER THIS ACT.

Commissioner of Labour.

4. (*1*) The Provincial Government shall, by notification in the *Official Gazette*, appoint a person to be the Commissioner of Labour.

(*2*) The Provincial Government may by general or special order notified in the *Official Gazette* confer and impose all or any of the powers and duties of the Commissioner of Labour on any person whether generally or for any local area.

Registrar and Assistant Registrars.

5. (*1*) The Provincial Government shall, by notification in the *Official Gazette*, appoint a person to be the Registrar of Unions for the whole of the Province.

[1] This Clause was inserted by Bom. 74 of 1948, s. 2 (c).
[2] This clause was inserted by Bom. 43 of 1948, s. 2.

(*2*) The Provincial Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may, by general or special order, confer on such person all or any of the powers of the Registrar of Unions under this Act.

Conciliators.

6. (*1*) The Provincial Government shall appoint a person to be the Chief Conciliator. His jurisdiction shall extend throughout the Province.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person to be a Conciliator for any industry in a local area specified in the notification.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person to be a Special Conciliator for such local area or for such industry for such local area or for such industrial dispute or class of disputes as may be specified in the notification.

Board of Conciliation.

7. (*1*) When an industrial dispute arises the Provincial Government may, by notification in the *Official Gazette*, constitute a Board of Conciliation for promoting the settlement of such dispute.

(*2*) The Board shall consist of a Chairman who shall be an independent person and an even number of members. Every member shall be either an independent person or a person chosen by the Provincial Government from a panel representing the interests of the employers or employees, provided that the number of persons chosen from panels representing employers and the number chosen from panels representing employees shall be equal. Such panels shall be constituted in the manner prescribed.

(*3*) If any vacancy occurs in the office of the Chairman or a member of the Board before the Board has completed its work, such vacancy shall be filled in the manner prescribed and the proceedings shall be continued before the Board as so reconstituted from the stage at which they were when the vacancy occurred.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the dispute for the settlement of which the Board is constituted and the industry directly affected by the dispute.

Labour Officers and Assistant Labour Officers.

8. (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint Labour Officers for any local area or areas.

(*2*) The Provincial Government may, by similar notification, appoint Assistant Labour Officers for any local area or areas, and may by general or special order confer on them all or any of the powers of the Labour Officer under this Act.

Labour Courts.

9. The Provincial Government shall, by notification in the *Official Gazette*, constitute one or more Labour Courts having jurisdiction in such local areas as may be specified in such notification and shall appoint persons having the prescribed qualifications to preside over such Courts :

Provided that no person shall be so appointed unless he possesses the qualifications, other than the qualification of age, laid down under section 255 of the Government of India Act, 1935, for being eligible to enter the subordinate civil judicial service in the Province of Bombay.

26 Geo. 5, Ch. 2.

Industrial Court.

10. (*1*) The Provincial Government shall constitute a Court of Industrial Arbitration.

(*2*) The Industrial Court shall consist of three or more members, one of whom shall be its President.

(*3*) Every member of the Industrial Court shall be a person who is not connected with any industry.

(*4*) Every member of the Industrial Court shall be a person who is or has been a judge of a High Court or is eligible for being appointed a judge of such Court :

Provided that one member may be a person not so eligible, if in the opinion of the Provincial Government he possesses expert knowledge of industrial matters.

CHAPTER III.

REGISTRATION OF UNIONS.

Recognition of undertakings and occupations.

11. The Registrar may, after making such inquiry as he deems fit, recognise for the purposes of this Act—

(*1*) any concern in an industry to be an undertaking ;

(*2*) any section of an undertaking to be an occupation.

Maintenance of registers and approved list.

12. It shall be the duty of the Registrar to maintain in such forms as may be prescribed—

(*a*) registers of unions registered by him under the provisions of this Act, and

(*b*) a list of approved unions.

Application for registration.

13. (*1*) Any union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than fifteen per cent. of the total number of employees employed in any industry in any local area may apply in the prescribed form to the Registrar for registration as a Representative Union for such industry in such local area.

(*2*) If in any local area no Representative Union has been registered in respect of an industry, a union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than five per cent. of the total number of employees employed in such industry in the said area may apply in the prescribed form to the Registrar for registration as a Qualified Union for such industry in such local area.

(*3*) If in any local area, neither a Representative Union nor a Qualified Union has been registered in respect of an industry, a union having a membership of not less than fifteen per cent. of the total number of employees employed in any undertaking in such industry in the said area and complying with the conditions specified in section 23 as necessary for its being placed on the approved list may apply in the prescribed form to the Registrar for registration as a Primary Union for such industry in such local area.

Registration of union.

14. On receipt of an application from a union for registration under section 13 and on payment of the fee prescribed, the Registrar shall, if after holding such inquiry as he deems fit he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 12 and issue a certificate of registration in such form as may be prescribed :

Provided—

Firstly, that in any local area there shall not at any time be more than one registered union in respect of the same industry :

Secondly, that in any local area the Registrar shall in respect of an industry register a union fulfilling the conditions necessary for registration as a Representative Union in preference to one not fulfilling the said conditions, and failing such a union a union fulfilling the conditions necessary for registration as a Qualified Union in preference to one not fulfilling such conditions :

Thirdly, that where two or more unions fulfilling the conditions necessary for registration apply for registration in respect of the same industry in any local area, subject to the provisions of the second proviso, the union having the largest membership of employees employed in the industry shall be registered :

Fourthly, that the Registrar shall not register any union if he is satisfied that the application for its registration is not made *bona fide* in the interest of the employees but is made in the interest of the employers to the prejudice of the interest of the employees :

[1][*Fifthly*, that the Registrar shall not register any union if at any time, within six months immediately preceding the date of the application for registration or thereafter the union has instigated, aided or assisted the commencement or continuation of a strike or stoppage which has been held or declared to be illegal :

Sixthly, that the Registrar shall not register any union, if the rules of the union relating to its members contain any provision debarring any employee in the industry concerned from being a member of such union on the ground that he is or is not an employee in any particular undertaking in the said industry.]

Cancellation of registration.

15. The Registrar shall cancel the registration of a union—

(*a*) if the Industrial Court directs that the registration of such union shall be cancelled ;

(*b*) if after holding such inquiry, if any, as he deems fit, he is satisfied—

(*i*) that it was registered under mistake, misrepresentation or fraud ; or

(*ii*) that the membership of the union has for a continuous period of three months fallen below the minimum required under section 13 for its registration :

Provided that where a strike or a closure not being an illegal strike or closure under this Act in an industry involving more than a third of the employees in the industry in the area has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months.

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership at the time of the cancellation is less than such minimum ; or

(*iii*) that the registered union being a Primary Union has after registration failed to observe any of the conditions specified in section 23 ; or

(*iv*) that the registered union is not being conducted *bona fide* in the interests of employees but in the interests of employers to the prejudice of the interest of employees ; or

(*v*) that it has instigated, aided or assisted the commencement or continuation of [2][a strike or a stoppage which has been held or declared to be illegal] ;

(*c*) if its registration under the Indian Trade Unions Act, 1926, is cancelled.

XVI of 1926.

Registration of another union in place of existing registered union.

16. (*1*) If at any time any union (hereinafter in this section referred to as "applicant union") makes an application to the Registrar for being registered in place of the union already registered (hereinafter in this section referred to as "registered union") for an industry, in a local area, on the ground that it has a larger membership of employees employed in such industry the Registrar shall call

[1] This portion was added by Bom. 74 of 1948, s. 3.

[2] These words were substituted for the original, *ibid*, s. 4.

upon the registered union by a notice in writing to show cause within one month of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(*2*) The Registrar shall forward to the Labour Officer a copy of the said application and notice.

(*3*) If, on the expiry of the period of notice undersub-section (*1*), after holding such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 13, and that its membership was during the whole of the period of three months immediately preceding the date of the application under this section larger than the membership of the registered union, he shall subject to the provisions of section 14 register the applicant union in place of the registered union.

(*4*) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of notice under sub-section (*1*).

Application for re-registration.

17. (*1*) Any union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (*ii*) of clause (*b*) of section 15 may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 13 and 14 shall apply in respect of such application.

(*2*) A union the registration of which has been cancelled on any other ground shall not, save with the permission of the Provincial Government, be entitled to apply for re-registration.

Liability of union or members not relieved by cancellation.

18. Notwithstanding anything contained in any law for the time being in force, the cancellation of the registration of a union shall not relieve the union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

Periodical returns to be submitted to Registrar.

19. Every registered union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

Appeal to Industrial Court from order of Registrar cancelling registration.

20. (*1*) Any party to a proceeding before the Registrar may within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court:

Provided that the Industrial Court may for sufficient reason admit any appeal made after the expiry of such period.

(*2*) The Industrial Court may admit an appeal under sub-section (*1*) if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or otherwise erroneous.

(*3*) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.

Publication of order.

21. Every order passed under section 14, 15 or 16 and every order passed in appeal under section 20 shall be published in the prescribed manner.

Registration of union for more than one local area.

22. Subject to the foregoing provisions of this Chapter, a union may in the prescribed manner be registered for an industry for more local areas than one.

CHAPTER IV.

APPROVED UNIONS.

Approved list: maintenance of: conditions for being entered in.

23. (*1*) On an application being made in the prescribed form, by a union for being entered in the approved list, the Registrar may after holding such inquiry as he deems fit enter the union in such list if he is satisfied that the union has made rules, that the provisions of the said rules are being duly observed by the unions, and that the rules provide that—

(*i*) its membership subscription shall be not less than four annas per month;

(*ii*) its executive committee shall meet at intervals of not more than three months;

(*iii*) all resolutions passed, whether by the executive committee or the general body of the union, shall be recorded in a minute book kept for the purpose;

(*iv*) an auditor appointed by Government may audit its accounts at least once in each financial year;

(*v*) every industrial dispute in which a settlement is not reached by conciliation shall be offered to be submitted to arbitration, and that arbitration under Chapter XI shall not be refused by it in any dispute;

(*vi*) no strike shall be sanctioned or resorted to by it unless all the methods provided by or under this Act for the settlement of an industrial dispute have been exhausted and the majority of its members vote by ballot in favour of such strike;

[1]["(*vii*) no stoppage which is illegal under this Act shall be sanctioned or resorted to by it:"]

Provided that the Registrar shall not enter a union in the approved list if he is satisfied that it is not being conducted *bona fide* in the interest of its members, but to their prejudice.

XVI of 1926.

Explanation.—"Member" for the purposes of clause (*vi*) means a member of the union for the purposes of the Indian Trade Unions Act, 1926.

(*2*) The Provincial Government may by notification in the *Official Gazette* direct that in the case of any union or class of unions specified in the notification the membership subscription may, subject to a minimum of two annas per month, be less than four annas.

(*3*) Notwithstanding anything contained in sub-section (*1*) there shall not at any time be more than one approved union in respect of any industry in a local area.

(*4*) Any union complying with the conditions specified in sub-section (*1*) and having a larger membership in an industry in a local area than an approved union for such industry shall on application in that behalf be entered in the approved list in place of such approved union.

Removal from approved list.

24. The Registrar shall remove a union from the approved list if its registration under the Indian Trade Unions Act, 1926, is cancelled, and may also so remove a union if after holding such inquiry if any as he deems fit, he is satisfied that it—

XVI of 1926.

(*i*) was entered in the list under mistake, misrepresentation or fraud, or

(*ii*) has, since being included in the approved list, failed to observe the conditions specified in section 23.

[1] This clause was inserted by Bom. 74 of 1948, s. 5.

Rights of Officers of approved unions.

25. [1][Such officers and members of an approved union as may be authorised by or under] rules made in this behalf by the Provincial Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned—

(*a*) to collect sums payable by members to the union on the premises where wages are paid to them;

(*b*) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;

(*c*) for the purpose of the prevention or settlement of an industrial dispute—

(*i*) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;

(*ii*) to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in his undertaking;

(*iii*) to inspect, if necessary, in any undertaking any place where any member of the union is employed.

Legal aid to approved unions at Government expense in important proceedings.

26. (*1*) An approved union entitled to appear—

(*a*) before a Labour Court in a proceeding for determining whether a strike, lock-out, [2][closure, stoppage] or change is illegal, or

(*b*) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact,

may apply to the Court for the grant of legal aid at the expense of the Provincial Government.

(*2*) A copy of every application made under sub-section (*1*) shall be sent to the Registrar with the least practicable delay.

(*3*) The Court to which an application is made under sub-section (*1*) may fix for the hearing of the application a day of which at least three days' clear notice shall be given to the Registrar.

(*4*) On the day fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses, if any, produced by the union and the Registrar, and may also examine the officers of the union, and shall make a memorandum of the substance of such evidence.

(*5*) The Court may after considering the evidence adduced under sub-section (*4*) either grant or refuse the application.

(*6*) The Provincial Government may in consultation with the Industrial Court prescribe the fees for legal advice to, and appearance on behalf of a union before a Court.

(*7*) For the purpose of this section, legal aid includes advice to the union and the appearance before a Court of a legal practitioner on behalf of the union.

CHAPTER V.

REPRESENTATIVES OF EMPLOYERS AND EMPLOYEES, AND APPEARANCE ON THEIR BEHALF.

Recognition of combination of employers as association of employers.

27. (*1*) The Provincial Government may from time to time by notification in the *Official Gazette*—

(*a*) recognise any combination of employers in an industry, whether incorporated or not as an association of employers for the purposes of this Act, provided that one of the objects of such combination is the regulation of conditions of employment in the industry;

[1] These words were substituted for the original by Bom. 43 of 1948, s. 3.

[2] These words were inserted by Bom. 74 of 1948, s. 6.

(*b*) withdraw any recognition granted under clause (*a*):

Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard.

(*2*) In any proceeding under this Act an association of employers shall be entitled to represent—

(*a*) any employer who is a member of the association;

(*b*) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding;

and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(*3*) Where more employers than one are affected or under any of the provisions of this Act deemed to be affected, and no association of employers is under sub-section (*2*) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representative.

Election of representatives of employees.

28. (*1*) Where there is no Representative Union in respect of any industry in any local area, the employees in each undertaking in the industry and in each occupation therein may, in the prescribed manner, elect five persons from among themselves to represent them for the purposes of this Act:

Provided that no such persons shall be elected for any occupation the number of employees in which does not exceed ten.

(*2*) The persons, if any, elected under sub-section (*1*) shall function in such manner as may be prescribed.

(*3*) Within [1][two years] from the date on which an election under sub-section (*1*) is held, and within each succeeding [1][two years] thereafter, a fresh election shall be held:

Provided that any person may be re-elected at any such election.

(*4*) The employees may in the prescribed manner recall any or all of the persons elected under sub-section (*1*) or (*3*).

(*5*) Vacancies in the number of the persons elected under sub-section (*1*) or (*3*) shall be filled by election in the prescribed manner.

Act or decision of majority to be deemed to be act or decision of all.

29. Any act or decison of the majority of the persons elected under section 28 by any employees shall be deemed to be the act or decision of all the persons so elected by them.

Representative of employees.

30. The following shall be entitled to set in the order of preference specified as the representative of employees in an industry in any local area—

(*i*) a Representative Union for such industry;

(*ii*) a Qualified or Primary Union of which the majority of employees directly affected by the change concerned are members;

(*iii*) any Qualified or Primary Union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned;

(*iv*) the Labour Officer if authorised by the employees concerned;

(*v*) the persons elected by the employees in accordance with the provisions of section 28 or where the proviso to sub-section (*1*) thereof applies, the employees themselves;

(*vi*) the Labour Officer:

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[1] These words were substituted for the words "twelve months" by Bom. 74 of 1948, s. 7.

Provided—

Firstly, that the persons entitled to act under clause (*v*) may authorise any Qualified or Primary Union in respect of such industry to act instead of them :

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner :

Thirdly, where in any proceeding the persons entitled to act under clause (*v*) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled to act instead.

Certain unions to continue to act for some time as representatives of employees.

31. Notwithstanding anything contained in this Act, a registered or representative union entitled under the Bombay Industrial Disputes Act, 1938, to act as a representative of employees immediately before the application of this Act to the industry concerned shall continue to be so entitled for a period of six months from the date of its application thereto or until a representative of employees becomes entitled to act as such under section 30, whichever is earlier. Bom. XXV of 1938.

Explanation.—For the purposes of this section the expressions ' registered union ' and ' representative union ' have the meanings respectively assigned to them in the Bombay Industrial Disputes Act, 1938. Bom. XXV of 1938.

Persons who may appear in proceedings.

32. (*1*) A Conciliator may, if he considers it to be necessary for the proper discharge of his functions, permit any individual, whether an employee or not, to appear in any proceeding before him.

(*2*) The provisions of sub-section (*1*) shall apply so far as may be to a Board, an Arbitrator, a Labour Court and the Industrial Court.

Representation of employees.

33. Notwithstanding anything contained in any other provision of this Act, an employee [1][or a representative union] shall be entitled to appear through any person,

(*a*) in all proceedings before the Industrial Court ;

[2][(*aa*) in all proceedings before a wage board ;

(*b*) in proceedings before a Labour Court for deciding whether a strike, lock-out, [3][closure or stoppage] or change or an order passed by an employer under the standing orders is illegal [4][or for deciding any industrial dispute referred to it under section 72] ;

(*c*) in such other proceedings as the Industrial Court may, on application made in that behalf, permit :

Provided that a legal practitioner shall not be permitted under clause (*c*) to appear in any proceeding under this Act except before a Labour Court or the Industrial Court.

CHAPTER VI.

Powers and duties of Labour Officer.

Powers and duties of Labour Officer.

34. (*1*) A Labour Officer shall exercise the powers conferred, and perform the duties imposed on him by or under this Act.

[1] These words were inserted by Bom. 43 of 1948 s. 4(*a*).
[2] This Clause was inserted, *ibid*, s. 4(*b*).
[3] These words were inserted by Bom. 74 of 1948, s. 8 (*a*).
[4] This portion was inserted, *ibid*, s. 8 (*b*).

(*2*) For the purpose of exercising such powers and performing such duties a Labour Officer may, subject to such conditions as may be prescribed, at any time during working hours, and outside working hours after reasonable notice, enter and and inspect—

(*a*) any place used for the purpose of any industry;

(*b*) any place used as the office of any union;

(*c*) any premises provided by an employer for the residence of his employees,

and shall be entitled to call for and inspect all relevant documents which he may deem necessary for the due discharge of his duties and powers under this Act.

(*3*) All particulars contained in or information obtained from any document inspected or called for under sub-section (*2*) shall, if the person in whose possession the document was so requires, be treated as confidential.

(*4*) A Labour Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order and may also himself affix or cause to be affixed such notice. The notice shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened:

Provided that during the continuance of a lock-out which is not illegal, no meeting of employees affected thereby shall be convened on such premises without the employer's consent.

(*5*) A Labour Officer shall be entitled to appear in any proceeding under this Act.

(*6*) It shall be the duty of the Labour Officer to—

(*a*) watch the interests of employees and promote harmonious relations between employers and employees;

(*b*) investigate the grievances of employees and represent to employers such grievances and make recommendations to them in consultation with the employees concerned for their redress;

(*c*) report to the Provincial Government the existence of any industrial dispute of which no notice of change has been given, together with the names of the parties thereto:

Provided that the Labour Officer shall not—

(*a*) appear in any proceeding in which the employees who are parties thereto are represented by a Representative Union,

(*b*) where there is [1][an approved union] for an industry in a local area, except at the request of the union, act under clause (*b*) of sub-section (*6*) in respect of the employees.

CHAPTER VII.

STANDING ORDERS.

Settlement of Standing Orders by Commissioner of Labour.

35. (*1*) Within six weeks from the date of the application of this Act to an industry every employer therein shall submit for approval to the Commissioner of Labour in the prescribed manner draft standing orders regulating the relations between him and his employees with regard to the industrial matters mentioned in Schedule I:

Provided that where an undertaking in an industry is started after the application of this Act to such industry, the draft standing orders shall be submitted within six months of the starting of the undertaking.

[1] These words were substituted for the words "a Representative Union" by Bom. 43 of 1948, s. 5.

(*2*) On receipt of the draft standing orders the Commissioner of Labour shall, after consulting in the prescribed manner the representative of employees and employers and such other interests concerned in the industry and making such inquiry as he deems fit, settle the said standing orders.

(*3*) The Commissioner of Labour shall forward a copy of the standing orders so settled to the Registrar, who shall within fifteen days of their receipt record them in the register kept for the purpose.

(*4*) Standing orders so settled shall come into operation from the date of their record in the register under sub-section (*3*).

(*5*) Until standing orders in respect of an undertaking come into operation under the provisions of sub-section (*4*), model standing orders, if any, notified in the *Official Gazette* by the Provincial Government in respect of the industry shall apply to such undertaking.

Appeal to Industrial Court.

36. (*1*) Any person aggrieved by any standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35 may within thirty days from the date of their coming into operation appeal to the Industrial Court:

Provided that the Industrial Court may for sufficient cause, admit any appeal after the expiry of the period of thirty days.

(*2*) On an appeal being filed, the Industrial Court may on the application of any party to such appeal and on such conditions as it may think fit stay the operation of all or any of such standing orders until the appeal is decided.

(*3*) The Industrial Court in appeal may confirm, modify, add to or rescind all or any of such standing orders.

(*4*) The Industrial Court shall fix the date on which all or any of the standing orders settled by it under sub-section (*3*) shall come into operation.

(*5*) A copy of the orders passed by the Industrial Court under sub-section (*3*) shall be sent to the Registrar who shall record them in the register referred to in sub-section (*3*) of section 35.

Review.

37. (*1*) Any person aggrieved by a decision of the Industrial Court under section 36 may within thirty days from the date of the decision apply to the Industrial Court for a review of the said decision.

(*2*) The Industrial Court shall not grant such application unless it is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the party making the application or could not be produced by him at the time when its decision was made, or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for granting such application.

(*3*) The provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 36 shall, so far as may be, apply to proceedings under sub-section (*1*) in the same manner as they apply to an appeal against standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35.

No alteration in Standing Orders for one year.

38. (*1*) No alteration shall be made for a period of one year from the date of its coming into operation in any standing order settled under any of the foregoing provisions of this Chapter except by the Industrial Court in appeal or review, where such appeal or review lies.

(2) Any employer or employee may apply to the Commissioner of Labour for a change in—

(a) any standing order settled under sub-section (2) of section 35, which has not been appealed against, or

(b) any standing order settled in appeal under sub-section (3) of section 36, in respect of which no application for review has been made, or

(c) any standing order settled in review under section 37,

after the expiry of one year from the date of such standing order coming into operation.

Alteration in Standing Orders.

39. (1) On receipt of an application under sub-section (2) of section 38 the Commissioner of Labour shall, after giving the other party an opportunity of being heard and after consulting such other interests in the industry as in his opinion are affected, pass such order as he deems fit, and, if the order effects an alteration in any standing order,, forward a copy of the standing order as so altered to the Registrar who shall, within fifteen days of its receipt record it in the register referred to in sub-section (3) of section 35. The standing order as so altered shall come into operation from the date of its record in the register.

(2) The provisions of sections 36, 37 and 38 shall, so far as may be, apply to an order passed by the Commissioner of Labour under sub-section (1) in the same manner as they apply to standing orders settled under sub-section (2) of section 35.

Standing Orders to be determinative.

40. (1) Standing orders in respect of an employer and his employees settled under this Chapter and in operation, or where there are no such standing orders, model standing orders, if any, applicable under the provisions of sub-section (5) of section 35 shall be determinative of the relations between the employer and his employees in regard to all industrial matters specified in Schedule I.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may refer, or an employee may apply in respect of, any dispute of the nature referred to in clause (a) of paragraph A of section 78, to a Labour Court.

Act XX of 1946 not to apply to certain industries.

41. The provisions of the Industrial Employment (Standing Orders) Act, 1946, shall not apply to any industry to which the provisions of this Chapter are applied.

XX of 1946.

CHAPTER VIII.

CHANGES.

Notice of change

42. (1) Any employer intending to effect any change in respect of an industrial matter specified in Schedule II shall give notice of such intention in the prescribed form to the representative of employees. He shall send a copy of such notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Register, the Labour Officer and such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place on the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any particular case.

(2) An employee desiring a change in respect of an industrial matter not specified in Schedule I or III shall give notice in the prescribed form to the employer through the representative of employees, who shall forward a copy of the notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(*3*) When no settlement is arrived at in any conciliation proceeding in regard to any industry dispute which has arisen in consequence of a notice relating to any change given under sub-section (*1*) or sub-section (*2*), no fresh notice with regard to the same change or a change similar in all material paticulars shall be given before the expiry of two months from the date of the completion of the proceeding within the meaning of section 63. If, at any time after the expiry of the said period of two months, any employer or employee again desires the same change or a change similar in all material particulars, he shall give fresh notice in the manner provided in sub-section (*1*) or (*2*), as the case may be.

(*4*) Any employee [1][or a representative union] desiring a change in respect of (*i*) any order passed by [2][the] employer under standing orders, or (*ii*) any industrial matter arising out of the application or interpretation of standing orders, or (*iii*) an industrial matter specified in Schedule III, shall make an application to the Labour Court :

Provided that no such application shall lie unless the employee [1][or a representative union] has in the prescribed manner approached [2][the] employer with a request for the change and no agreement has been arrived at in respect of the change within the prescribed period.

Notice of change when to be deemed general notice.

43. [3][(*1*) Where an employer gives notice of a proposed change under sub-section (*1*) of section 42 affecting some of the employees in an industry in a local area, any other employer or an association of employers or the representative of any employees engaged in the industry in the local area may, within seven days from the date of service of such notice, intimate in writing to such employer that other employers, or as the case may be, other employees, engaged in the industry in the area and mentioned in such intimation are affected by the change. The employer or employers concerned shall affix a copy of such intimation at a conspicuous place on every premises where the employees concerned are employed for work.

(*2*) Where an employee gives notice of a proposed change under sub-section (*2*) of section 42 affecting one or some of the employers in an industry in a local area the representative of employees or any employer or an association of employers engaged in the industry in the local area may, within seven days from the date of service of such notice, give a special notice in writing to the employee and his employer, or as the case may be, the representative of employees, that other employees, or as the case may be, other employers, engaged in the industry in the area and mentioned in such special notice, are affected by the change. The employer or employers concerned shall affix a copy of such special notice at a conspicuous place on every premises where the employees concerned are employed for work.]

(*3*) A copy of every intimation under sub-section (*1*) and special notice under sub-section (*2*) shall be sent to the Commissioner of Labour, the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(*4*) On an intimation being given under sub-section (*1*) or a special notice being given under sub-section (*2*) and the provisions of sub-section (*3*) being complied with, the employees mentioned in the intimation or employers mentioned in the special notice, as the case may be, shall also, for the purposes of this Act, be deemed

[1] These words were inserted by Bom. 43 of 1948, s. 6 (*a*).
[2] This word was substituted for the word "his", *ibid.*, s. 6 (*b*).
[3] Sub-sections (*1*) and (*2*) were substituted for the original by Bom. 74 of 1948, s. 9.

to be affected by such change, and to have been given notice under sub-section (*1*) or (*2*), as the case may be, of section 42.

(*5*) Where an employer or an employee gives a notice of a proposed change under sub-section (*1*) or sub-section (*2*), as the case may be, of section 42, and such change, in the opinion of the Provincial Government affects the majority of employers or employees engaged in an industry or occupation in the local area, the Provincial Government may by notification in the *Official Gazette* declare that the whole of such industry or occupation, as the case may be, is affected by such change and thereupon it shall be deemed to be so affected.

Agreement regarding change.

44. (*1*) If within seven days from the date of service of a notice under section 42 or an intimation or special notice under section 43 or the date of publication of a notification under sub-section (*5*) of section 43, or within such further period as may be mutually fixed by the employers affected and the representative of the employees affected an agreement is arrived at in regard to the proposed change, a memorandum of such agreement signed by the employer or employers as well as by the representative of employees shall be forwarded in the prescribed manner to the Chief Conciliator, the Registrar and the Labour Officer:

Provided that where the employees deemed to be affected under sub-section (*4*) of section 43 are in the opinion of the Provincial Government the majority of the employees in the industry, or the whole industry is deemed to be affected under sub-section (*5*) thereof, the Labour Officer shall not enter into any agreement under this sub-section.

(*2*) On receipt of such memorandum of agreement the Registrar shall enter the same in a register maintained for the purpose unless on inquiry he is satisfied that the agreement was in contravention of any of the provisions of this Act or was the result of mistake, misrepresentation, fraud, undue influence, coercion or threat.

(*3*) An appeal shall lie to the Industrial Court against an order of the Registrar refusing to register an agreement under sub-section (*2*). The provisions of section 20 shall apply to such appeal.

Agreement to come into force.

45. An agreement registered under section 44 shall come into operation on the date specified therein or if no date is so specified on its being recorded by the Registrar.

Illegal change.

46. (*1*) No employer shall make any change in any standing order settled under Chapter VII without following the procedure prescribed therefor in this Act.

(*2*) No employer shall make any change in any industrial matter mentioned in Schedule II—

(*i*) within the period provided for in sub-section (*1*) of section 44 unless an agreement is arrived at;

(*ii*) where no agreement is arrived at and registered before a settlement relating to the dispute comes into operation;

(*iii*) where no settlement is arrived at, after two months from the date of the completion of the proceedings before the Conciliator;

(*iv*) in cases where there is a registered submission or in which the dispute has been referred to arbitration, before the date on which the award comes into operation;

[1][(*v*) in cases where such matter or a dispute regarding such matter has been referred to a Wage Board for decision, before the date on which the decision comes into operation.]

(*3*) No employer shall make any such change in contravention of the terms of a settlement, [2][effective award, registered agreement or effective order or decision of a Wage Board].

(*4*) Any change made in contravention of the provisions of sub-section (*1*), (*2*) or (*3*) shall be illegal.

(*5*) Failure to carry out the terms of any settlement, award [3][registered agreement or effective order or decision of a wage Board] shall be deemed to be an illegal change.

Employer to make change etc. within certain time.

47. An employer required under the terms of any [4][effective decision or order of a Wage Board,] Labour Court or the Industrial Court to carry out a change or withdraw an illegal change, shall comply with such requirement within such time as the [5][wage Board or] Court giving or making the decision or order prescribes and where no time is prescribed by it within forty-eight hours of the giving or making of the decision or order [6][or as the case may be, of the declaration referred to in section 76A or 86F.]

CHAPTER IX.

JOINT COMMITTEES.

Constitution of Joint Committees.

48. (*1*) A Joint Committee may be constituted for an undertaking or occupation with the consent of the employer and the registered union for the industry for the local area : [7][and shall be constituted irrespective of such consent, if the Provincial Government on an application made to it in this behalf by the registered union so directs].

Provided that no Joint Committee shall be so constituted in respect of an undertaking or occupation where there is no representative union, unless not less than fifteen per cent. of the employees are members of a registered union.

(*2*) On application made in this behalf by the employer or the Union to the Registrar, a Joint Committee shall be entered in a list of Joint Committees maintained by him, and thereupon all the provisions of this Act shall apply to the Joint Committee.

[8][(*3*) Every Joint Committee shall stand dissolved whenever the condition specified in the proviso to sub-section (*1*) ceases to be complied with ; and a Joint Committee constituted with the consent of the employer and the registered union shall also stand dissolved on the expiry of the period of a three months' notice in that behalf being given by the employer to the union, or by the union to the employer.]

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[1] This clause was inserted by Bom. 43 of 1948, s. 7 (*i*).
[2] These words were substituted for the original, *ibid.*, s. 7 (*ii*).
[3] These words were substituted for the original, *ibid.*, s. 7 (*iii*).
[4] These words were substituted for the original, *ibid.*, s. 8 (*i*).
[5] These words were inserted, *ibid.*, s. 8 (*ii*).
[6] This portion was added by Bom. 43 of 1948, s. 8 (*iii*).
[7] This portion was inserted, *ibid.*, s. 9 (*i*).
[8] This sub-section was substituted for the original, *ibid.*, s. 9 (*ii*).

Composition of Joint Committee.

49. (*1*) A Joint Committee shall consist of such number of members as may be prescribed; half the number shall in the prescribed manner be nominated by the union [1][from among employees in the undertaking or occupation concerned], and the other half appointed by the employer concerned.

[2][Where the Joint Committee is to be constituted in pursuance of a direction of the Provincial Government on an application made by the registred union, the union and the employer shall nominate and appoint the members within such period as the Provincial Government may by order specify. A copy of such order shall, as soon as may be, be given to the union and the employer in the manner prescribed.]

(*2*) A chairman shall be appointed in accordance with rules made in this behalf. He shall perform his duties in the prescribed manner.

Proceedings of Joint Committee.

50. (*1*) A representative of the registered union may attend any meeting of the Joint Committee, to advise the members representing the employees.

(*2*) The proceedings of the Joint Committee shall be conducted in the manner prescribed.

(*3*) The proceedings shall be recorded in a minute book.

Proposal for change.

51. (*1*) Any member of a Joint Committee may move a proposal regarding any change other than a change in any standing order or regarding any other matter affecting the relations between the employer and the employees in the undertaking or occupation, as the case may be, for which the Committee is constituted:

Provided that no such proposal shall be moved for a change in respect of any industrial matter if such change could not for the time being be made under this Act.

(*2*) The decision of the Joint Committee regarding every change proposed under the provisions of sub-section (*1*) together with all necessary particulars regarding such change shall within forty-eight hours be communicated to the registered union and the employer, as well as the Labour Officer and the Commissioner of Labour.

Special intimation for change and special application to Labour Court.

52. (*1*) Where an agreement is arrived at between the employer and the union regarding any change proposed in the Joint Committee under sub-section (*1*) of section 51, a memorandum of such agreement signed by them shall be forwarded by the employer in the prescribed manner to the Registrar and the Labour Officer and all the provisions of this Act shall apply to such agreement as they would apply in respect of an agreement under sub-section (*1*) of section 44.

(*2*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51, the employer or the union sends an intimation (hereinafter called special intimation) in the prescribed form to the Conciliator for the industry for the local area stating that the change proposed in the Joint Committee, being a change in respect of a matter not specified in Schedule I or III, or such change with specified alterations, should be made, and that no agreement in respect thereof has been arrived at between the union and the employer, the Conciliator shall forthwith enter the case as an industrial dispute in the register kept under section 55, and the provisions of this Act shall apply to it as if a statement were submitted under section 54.

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[1] These words were inserted by Bom. 74 of 1948, s. 10.

[2] This portion was inserted by Bom. 43 of 1948, s. 10.

(*3*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51 regarding a matter specified in clause (*a*) of paragraph A of sub-section (*1*) of section 78 the employer or union sends a special application in respect of such matter to the Labour Court having jurisdiction, the Labour Court shall forthwith proceed to decide the dispute under the provisions of Chapter XII.

(*4*) A copy of every special intimation sent under sub-section (*2*) shall be forwarded to the Chief Conciliator, the Conciliator for the industry for the local area concerned, the Registrar, the Labour Officer and such other person as may be prescribed.

Decision of respective representatives binding on union and employer.

53. (*1*) The union may authorise such proportion (hereinafter called the authorised proportion), not being less than three-fourths of the members representing the employees on the Joint Committee, to accept or reject on its behalf any proposal or class of proposals moved in the Committee.

(*2*) The employer may authorise a proportion of the members representing him on the Committee to accept or reject on his behalf any proposal or class of proposals moved in the Committee.

(*3*) For a period of two months after a decision of the Committee, no notice of change under section 42, or special intimation or application under section 52 shall be given or made—

(*a*) where the union acts under sub-section (*1*), by the employees concerned or the union, contrary to the decision of the authorised proportion accepting a proposal in respect of which it is authorised; and

(*b*) where the employer acts under sub-section (*2*), by the employer, contrary to the decision of the authorised proportion of his representatives.

(*4*) The union whenever it acts under sub-section (*1*), and the employer whenever he acts under sub-section (*2*), shall communicate the fact to the Chief Conciliator, the Conciliator for the industry for the local area concerned and the Registrar.

CHAPTER X.

Conciliation Proceedings.

Report of dispute to be sent to Registrar, Chief Conciliator and Conciliator.

54. (*1*) If any proposed change in respect of which notice is given under section 42, or an intimation or special notice is given under section 43 is objected to by the employer or the employee, as the case may be, the party who gave such notice, intimation or special notice shall, if he still desires that the change should be effected, forward to the Registrar, the Chief Conciliator and the Conciliator for the local area for the industry concerned a full statement of the case in the prescribed form within fifteen days from the date of service of such notice, intimation or special notice on the other party or within one week of the expiry of the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement.

Explanation.—For the purposes of this sub-section a change shall be deemed to be objected to by the employer or employee, as the case may be, if within seven days from the date of service of such notice, intimation or special notice or within the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement a memorandum of agreement has not been forwarded to the Registar under the said sub-section.

(2) When a notification is issued under sub-section (5) of section 43 in respect of such change, any employer or employee in the industry may within seven days from the date of publication of such notification forward such statement to the said officers.

Commencement of conciliation proceeding.

55. On receipt of the statement of the case under section 54 the Conciliator shall, except in a case in which by reason of the provisions of section 64 a conciliation proceeding cannot be commenced, forthwith enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from the date of such receipt.

Conciliation proceeding.

56. (1) The Conciliator shall hold the conciliation proceeding in the prescribed manner.

(2) It shall be the duty of the Conciliator to endeavor to bring about the statement of the industrial dispute and for this purpose the Conciliator shall enquire into the dispute and all matters affecting the merits thereof and may do all such thing as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to arrive at a settlement or for any other reason.

Power of Chief Conciliator to intervene.

57. (1) It shall be lawful for the Chief Conciliator to intervene or to direct any Conciliator to intervene at any stage in any conciliation proceedings held by another Conciliator, and thereafter the Chief Conciliator or the Conciliator so directed shall hold the conciliation proceeding with or without the assistance of the Conciliator.

(2) The Chief Conciliator may from time to time issue such directions as he deems fit to any Conciliator at any stage of a conciliation proceedings.

Settlement and report.

58. (1) If a settlement of an industrial dispute is arrived at in a conciliation proceeding, a memorandum of such settlement shall be drawn up in the prescribed form by the Conciliator and signed by the employer and the representatives of employees. The Conciliator shall send a report of the proceeding along with a copy of the memorandum of settlement to the Registrar and the Chief Conciliator. The Registrar shall record such settlement in the register of agreements and shall then publish it in the prescribed manner. The change, if any, agreed to by such settlement shall come into operation from the date agreed upon in such settlement where no such date is agreed upon from the date on which it is recorded in the register.

(2) If no such settlement is arrived at, the Conciliator shall, as soon as possible after the close of the proceeding before him, send a full report to the Chief Conciliator stating the steps taken by him for ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, settlement could not be arrived at :

Provided that where such Conciliator is the Chief Conciliator such report shall forwarded by him to the Provincial Government.

(3) The Chief Conciliator shall forward the report submitted to him under sub-section (2) to the Provincial Government with such remarks as he deems fit.

(4) The Provincial Government shall publish the report of the Conciliator or Chief Conciliator forwarded to it under the proviso to sub-section (2) or under sub-section (3) except in cases in which the dispute is referred to a Board, or the parties to the dispute enter into a submission in respect of it.

[1][(*4A*) Notwithstanding anything contained in this section where an industrial dispute is settled in regard to some of the industrial matters included therein and has not been settled in regard to others and the parties agree in writing that the settlement shall take place in regard to the industrial matters so settled, the settlement of the said industrial matter shall be registered and a report of the industrial matters not settled shall be sent in accordance with the provisions of this section.]

(*5*) Before the close of the proceeding before him the Conciliator shall ascertain from the parties whether they are willing to submit the dispute to arbitration.

(*6*) (*a*) Notwithstanding anything contained in the foregoing sub-sections, if at any stage of a conciliation proceeding the parties agree in writing to submit the dispute to arbitration, the agreement shall be deemed to be a submission within the meaning of section 66.

(*b*) Where the agreement provides for arbitration either by a Labour Court or by the Industrial Court, the Conciliator shall forthwith refer the dispute to the Labour Court or the Industrial Court, as the case may be.

Reference to Board.

59. (*1*) The Provincial Government may at any time, and where either prior to the commencement of a proceeding before the Conciliator or after his failure to bring about a settlement, the parties agree, shall refer the dispute to a Board and thereupon conciliation proceedings before the Board shall be deemed to have commenced from the date of such reference.

(*2*) On such reference being made, the Board shall give notice in the prescribed manner to the parties to the dispute to appear before it at such time and place as may be specified in the notice. A copy of such notice shall be sent to the Labour Officer.

(*3*) On the date specified in the notice or on such other date as may be fixed by the Board, the Board shall hold the conciliation proceeding. It shall be the duty of the Board to endeavour to bring about a settlement of the industrial dispute and the provisions of sections 55, 56 and 58 shall, so far as may be, apply to the proceeding before the Court.

Procedure and powers of Conciliator and Board.

60. (*1*) A Conciliator or a Board, as the case may be, shall subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

(*2*) The proceedings before a Conciliator shall be held *in camera* and any proceedings before a Board may be held in public or *in camera* as the Board may decide.

(*3*) If a party to an industrial dispute or a witness or any other person giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator or the Board, as the case may be, that such information or the contents of such document be treated as confidential, the Conciliator or the Board shall direct that such information or document be treated as confidential :

Provided that the Conciliator or Board may permit the information or the contents of the document to be disclosed to the other party.

(*4*) Save as provided in sub-section (*3*) a Conciliator or any member of a Board or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (*3*) without the consent in writing of the party making the request under the said sub-section.

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[1] This sub-section was inserted by Bom. 74 of 1948, s. 11.

(*5*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Reference to Industrial Court by Conciliator or Board.

61. A Conciliator or a Board may refer any question of law arising before him or it in any conciliation proceeding, to the Industrial Court for decision. Any order passed by the Conciliator or the Board in such proceeding shall be in accordance with such decision.

Time limit for stages of conciliation proceeding.

62. (*1*) The Provincial Government shall by general or special order notified in the *Official Gazette* fix a time limit for the completion of each stage of the conciliation proceedings provided for under this Chapter :

Provided that the total period fixed for the completion of all stages of a conciliation proceeding shall not exceed one month from the date on which the dispute is entered by the Conciliator in the register under section 55 or is referred to a Board under section 59 :

Provided further that the Provincial Government may extend the said period of one month by a further period of a fortnight at a time but not exceeding in any case two months in the aggregate.

(*2*) Notwithstanding anything contained in sub-section (*1*), the parties to any industrial dispute may in any case agree to extend the period fixed for the completion of any stage of a conciliation proceeding by any further period and such further period shall be excluded in computing the period of time limit referred to in the said sub-section.

Completion of conciliation proceeding.

63. A conciliation proceeding shall be deemed to have been completed—

(*i*) when a memorandum of the settlement arrived at in such proceeding is signed by the parties under sub-section (*1*) of section 58, or

(*ii*) when the parties agree in writing to submit the dispute to arbitration, or

(*iii*) if no settlement is arrived at, when the report of the Conciliator or the Board is published by the Provincial Government, or

(*iv*) when the time limit fixed for the completion of such proceeding under section 62 has expired.

[1][*Explanation.*—When an industrial dispute is settled in regard to some of the industrial matters included therein, the conciliation proceeding in regard to those matters only shall be deemed to have been completed within the meaning of this section.]

Conciliation proceedings not to be commenced or continued in certain cases.

64. No conciliation proceeding in respect of an industrial dispute shall—

(*a*) be commenced if—

(*i*) the representative of employees directly affected by the dispute is a registered union which is a party to a submission relating to such dispute or a dispute relating to an industrial matter similar to that regarding which the dispute has arisen ;

(*ii*) it has been referred to arbitration under the provisions of section 72 [2][73 or 73A] ;

(*iii*) by reason of a direction issued under sub-section (*2*) of section 114 the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award ;

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[1] This Explanation was added by Bom. 74 of 1948, s. 12.

[2] These figures, word and letter were substituted for the word and figures "or 73" by Bom. 43 of 1948, s. 11.

(*b*) be continued after the date on which—

(*i*) a submission relating to such dispute is entered into by the employer and employees concerned under section 58 or 66;

(*ii*) the dispute is referred to arbitration under section 72 or 73; or

(*iii*) the direction referred to in sub-clause (*iii*) of clause (*a*) is issued.

Conciliation proceeding discontinued deemed to be completed.

65. A conciliation proceeding which is discontinued under clause (*b*) of section 64 shall be deemed to have been completed on the date referred to in the said clause, and the provisions of section 58 with regard to the submission, forwarding and publication of reports shall apply to such conciliation proceeding.

CHAPTER XI.

ARBITRATION.

Submission.

66. (*1*) Any employer and a Representative Union or any other registered union which is a representative of employees may, by a written agreement, agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(*2*) Such submission may provide that the dispute shall be referred to the arbitration of a Labour Court or the Industrial Court:

[1][Provided that no such submission shall provide for reference of any such dispute to the arbitration of the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

(*3*) A copy of every such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

Submission when revocable.

67. Every submission shall in the absence of any provision to the contrary contained therein be irrevocable:

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months' notice in writing:

Provided further that before the expiry of the said period of six months the parties may agree to continue the submission for such further period as may be agreed upon between them.

Proceedings in arbitration.

68. The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940, in so far as they are applicable, and the powers which are exercisable by a Civil Court under the said provisions shall be exercisable by a Labour Court and the Industrial Court. X of 1940.

Special case to be stated to industrial Court.

69. The arbitrator may refer any question of law arising before him in any proceeding under this Act to the Industrial Court for its decision. Any award made by the arbitrator shall be in accordance with such decision.

Award by arbitrator.

70. The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

[1] This proviso was added by Bom. 43 of 1948, s. 12.

Dispute to be referred to Labour Court or Industrial Court if no arbitrator appointed.

71. Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator or where by reason of any circumstance no arbitrator is appointed, such dispute shall be referred to the arbitration of a Labour Court or the Industrial Court, as the Provincial Government may determine.

Disputes between employees and employees may be referred by Provincial Government to arbitration of Labour Court or Industrial Court.

72. (*1*) Notwithstanding anything hereinbefore contained the Provincial Government may, at any time on the report of the Labour Officer or on its own motion, refer any industrial dispute between, employees and employees to the arbitration of a Labour Court or the Industrial Court.

(*2*) The provisions of this Chapter with such modifications as may be prescribed shall apply to such arbitration.

(*3*) The employers of such employees shall in the prescribed manner be made parties to such arbitration.

Provincial Government may refer Industrial dispute to Industrial Court for arbitration.

73. Notwithstanding anything contained in this Act, the Provincial Government may, at any time, refer an industrial dispute to the arbitration of the Industrial Court, if on a report made by the Labour Officer or otherwise it is satisfied that—

(*1*) by reason of the continuance of the dispute—

(*a*) a serious outbreak of disorder or a breach of the public peace is likely to occur; or

(*b*) serious or prolonged hardship to a large section of the community is likely to be caused; or

(*c*) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or

(*2*) the dispute is not likely to be settled by other means; or

(*3*) it is necessary in the public interest to do so.

Reference to arbitration by unions.

[1][**73A.** Notwithstanding anything contained in this Act, a registered union which is a representative of employees and the rules of which provide for the matter specified in clause (vi) of sub-section (*1*) of section 23, may at any time refer any industrial dispute for arbitration to the Industrial Court:

Provided that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

Notice of award to parties.

74. (*1*) The arbitrator, Labour Court or Industrial Court, as the case may be, shall forward copies of the award made by him or it to the parties, the Commissioner of Labour and the Registrar.

(*2*) On receipt of such award, the Registrar shall enter it in the register kept for the purpose and shall publish it in such manner as may be prescribed.

Date on which award shall come into operation.

75. The award shall come into operation on the date specified in the award or where no such date is specified therein on the date on which it is published under section 74.

Completion of arbitration proceeding.

76. The arbitration proceeding shall be deemed to have been completed when the award is published under section 74.

[1] This section was inserted by Bom. 43 of 1948, s. 13.

Procedure to give effect to awards affecting Provincial Government.

[1][**76A.** (*1*) Notwithstanding anything contained in sections 74 to 76 (both inclusive) where the award affects an industry conducted or carried on by a department of the Provincial Government, the award shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*).

(*2*) The arbitrator, Labour Court or Industrial Court shall, as soon as practicable on the conclusion of its proceedings, submit its award to the Provincial Government, and the Provincial Government shall, by order in writing, declare the decision to be binding :

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of th e award, the Provincial Government shall, on the first available opportunity, lay thedecision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award ; and the Legislative Assembly may by its resolution confirm, modify or reject the award.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the award is rejected thereby, the Provincial Government shall, by order in writing, declare the award as confirmed or modified by the resolution, as the case may be, to be binding.]

CHAPTER XII.

Labour Courts.

Territorial jurisdiction.

77. The territorial jurisdiction of Labour Courts shall extend to the local areas for which they are constituted.

Power of Labou Court.

78. (*1*) A Labour Court shall have power to—

A. decide—

(*a*) disputes regarding—

(*i*) the propriety or legality of an order passed by an employer under the standing orders ;

(*ii*) the application and interpretation of standing orders ;

(*iii*) any change made by an employer or desired by an employee in respect of an industrial matter specified in Schedule III and matters arising out of such change ;

(*b*) industrial disputes—

(*i*) referred to it under section 71 or 72 ;

(*ii*) in respect of which it is appointed as the arbitrator by a submission ;

(*c*) whether a strike, lock-out, [2][closure, stoppage] or any change is illegal under this Act ;

B. try offences punishable under this Act and where the payment of compensation on conviction for an offence is provided for, determine the compensation and order its payment ;

[1] This section was inserted, by Bom. 43 of 1948 s. 14.
[2] These words were inserted by Bom. 74 of 1948, s. 13.

C. require any employer to—

(*a*) withdraw any change which is held by it to be illegal, or

(*b*) carry out any change provided such change is a matter in issue in any proceeding before it under this Act.

(*2*) Every offence punishable under this Act shall be tried by the Labour Court within the local limits of whose jurisdiction it was committed.

Explanation.—A dispute falling under clause (*a*) of paragraph A of sub-section (*1*) shall be deemed to have arisen if within the period prescribed under the proviso to sub-section (*4*) of section 42, no agreement is arrived at in respect of an order, matter or change referred to in the said proviso.

Commencement of proceedings.

79. (*1*) Proceedings before a Labour Court in respect of disputes falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be commenced on an appplication made by any of the parties to the dispute, a special application under sub-section (*3*) of section 52 or an application by the Labour Officer [1][or a representative union] uand proceedings in respect of a matter falling under clause (*c*) of the said paragraph A on an application made by any employer or employee directly affected or the Labour Officer [1][or a representative Union.]

(*2*) Every application under sub-section (*1*) shall be made in the prescribed form and manner.

(*3*) An application in respect of a dispute falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be made—

(*a*) if it is a dispute falling under sub-clause (*i*) or (*ii*) of the said clause, within three months of the arising of the dispute;

(*b*) if it is a dispute falling under sub-clause (*iii*) of the said clause, within three months of the employee concerned having last approached the employer under the proviso to sub-section (*4*) of section42.

(*4*) An application in respect of a matter falling under clause (*c*) of paragraph A of sub-section (*1*) of section 78 shall be made within three months of the commencement of the strike [2][, lock-out, closure or stoppage] or of the making of the illegal change, as the case may be.

Summoning of parties and procedure at inquiry.

80. (*1*) On receipt of an application under section 79 the Labour Court shall summon all parties affected by the dispute to appear, and shall hold an inquiry.

(*2*) In an inquiry under sub-section (*1*) the Judge presiding over the Labour Court shall himself, as such inquiry proceeds, record a minute of the proceedings in his own hand, embracing the material averments made by the parties affected and the material parts of the evidence. The decision shall be signed by him and shall set forth the grounds on which it is based.

Reference to Industrial Court by Labour Court.

81. A Labour Court may refer any question of law arising in any proceeding before it to the Industrial Court for decision. Any order passed by the Labour Court in such proceeding shall be in accordance with such decision.

Cognizance of offences.

82. No Labour Court shall take cognizance of any offence except on a complaint by the person affected of facts constituting such offence or on a report in writing by the Labour Officer.

Powers and procedure of Labour Courts in trials.

83. In respect of offences punishable under this Act, a Labour Court shall have all the powers under the Code of Criminal Procedure, 1898, of a Presidency Magistrate in Greater Bombay and a Magistrate of the First Class elsewhere, and in the trial of every such offence shall follow the procedure laid down in Chapter XXII of

V of 1898.

[1] These words were inserted by Bom. 43 of 1948, s. 15.

[2] These words were substituted for the words " or lock-out " by Bom. 74 of 1948, s. 14.

the said Code for a summary trial in which an appeal lies; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

Appeals.

84. (*1*) Notwithstanding anything contained in section 83 an appeal shall lie to the Industrial Court—

(*a*) against a decision of a Labour Court in respect of a matter falling under clause (*a*) or (*c*) of paragraph A of sub-section (*1*) of section 78, except to the extent to which it determines whether a strike, [1][, lock-out, closure or stoppage was illegal or not, or a decision of such Court under paragraph C of sub-section (*1*) of the said section;

(*b*) against a conviction by a Labour Court by the person convicted;

(*c*) against an acquittal by a Labour Court in its special jurisdiction, by the Provincial Government;

(*d*) for enhancement of a sentence awarded by a Labour Court in its special jurisdiction, by the Provincial Government.

(*2*) Every appeal shall be made within thirty days from the date of the decision, conviction, acquittal or sentence, as the case may be:

Provided that the Industrial Court may for sufficient reasons allow an appeal after the expiry of the said period.

Industrial Court to exercise superintendence over Labour Courts.

85. The Industrial Court shall have superintendence over all Labour Courts and may—

(*a*) call for returns;

(*b*) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts in matters not expressly provided for by this Act and, in particular, for securing the expeditious disposal of cases;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such Courts;

(*d*) settle a table of fees payable for process issued by a Labour Court or the Industrial Court.

Decision, etc., of Labour Court not to be called in question.

86. Except as otherwise provided by this Act, no decision, award or order of a Labour Court shall be called in question in any proceeding in any civil or criminal Court.

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[2][CHAPTER XIIA.

WAGE BOARDS.

Wage Boards.

86A. The Provincial Government may, by notification in the *Official Gazette*, constitute for one or more industries a Wage Board for the Province.

Constitution of Wage Board.

86B. The Wage Board shall consist of an equal number of persons nominated by the Provincial Government to represent employers and employees and such number of independent persons as the Provincial Government nominates. The Chairman shall be appointed by the Provincial Government.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the industrial matter which may be referred to it under section 86C and the industry directly affected by the industrial matter.

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[1] These words were substituted for the words "or look-out" by Bom. 74 of 1948, s. 15.

[2] Chapters XIIA and XIIB were inserted by Bom. 43 of 1948, s. 16.

Reference to Wage Boards.

86C. (*1*) Notwithstanding anything contained in any other provision of this Act, the Provincial Government may, by an order notified in the *Official Gazette*, refer to a Wage Board for decision any industrial matter or industrial dispute regarding items numbered 1, 2, 4, 9 and 10 in Schedule II, and such other industrial matters or disputes as may be prescribed.

(*2*) The order of reference under sub-section (*1*) shall specify which employers and employees (including representative of employees if any, and association of employers if any) shall be parties to the proceedings before the Wage Board.

Proceedings not to be commenced or continued before Conciliator, Board, etc.

86D. Notwithstanding anything contained in any other provision of this Act, where an industrial matter or industrial dispute is referred for decision to a Wage Board under section 86C, no proceedings regarding the same shall be commenced before a Conciliator, Board, Labour Court or the Industrial Court or a Court of Enquiry; and any such proceedings already commenced shall be forthwith stayed on the making of the reference.

Procedure before Wage Boards.

86E. A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure which may be prescribed, follow the same procedure as the Industrial Court in respect of arbitration proceedings before it.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the purpose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested in the Wage Board in respect of such industrial matters or industrial disputes as are referred by the Wage Board to the Committee.

Coming into operation of decision of Wage Board.

[1][**86EE.** Save as provided in section 86F, a decision of the Wage Board shall come into operation on the date specified in the decision and where no such date is specified therein on the date on which it is published in the prescribed manner].

Procedure to give effect to decision of Wage Board affecting Provincial Government.

86F. (*1*) Where the decision of a Wage Board affects an industry conducted or carried on by a department of the Provincial Government, the decision shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*).

(*2*) The Wage Board shall, as soon as practicable on the conclusion of its proceedings, submit its decision to the Provincial Government, and the Provincial Government shall by order in writing declare the decision to be binding:

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of the decision, the Provincial Government shall on the first available opportunity lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislative Assembly may by its resolution confirm, modify or reject the decision.

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[1] This section was inserted by Bom. 74 of 1948, s. 16.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the decision is rejected thereby, the Provincial Government shall, by order in writing, declare the decision as confirmed or modified by the resolution, as the case may be, to be binding.

[1][(*4*) A decision declared to be binding under sub-section (*2*) or (*3*) shall come into operation on such date as may be specified in the order of declaration made by the Provincial Government.]

Appeals.

86G. (*1*) An appeal shall lie to the Industrial Court against an order or decision of a Wage Board (including reviewed order or decision), save in cases referred to in section 86F.

(*2*) Such appeal shall be made within six weeks from the date of the order or decision.

Parties on whom order or decision of Wage Board is binding.

86H. Subject to the provisions of sections 86F and 86G, an order or decision of a Wage Board shall be binding on—

(*a*) all parties to any proceeding before it who appeared or were represented therein ;

(*b*) all parties who were summoned to appear as parties to the proceeding, whether they appeared or not ;

(*c*) all the employers and employees in the concern or occupation or industry in the local area according as the order of reference under sub-section (*1*) of section 86C directs irrespective of whether they were such employers or employees at the time of the making or giving of such order or decision, or whether they became such afterwards.

Review of order or decision by Wage Board.

86I. (*1*) An employer or an employee or an association or a group of employers or a registered union or body of employees may apply to a Wage Board for review of an order or decision of the Wage Board and the Wage Board may for any sufficient reason and upon hearing all the parties review the order or decision :

Provided that no such application shall lie until a period of one year has elapsed from the date of the making or giving of the order or decision or the last review thereof, as the case may be :

Provided further that no such application by an employer or an association or a group of employers shall lie unless the employer, association or group, as the case may be, employs not less than fifteen per cent. of the employees whom the order or decision binds :

Provided also that no such application by an employee or a body of employees shall lie unless the employee or body of employees represents not less than fifteen per cent. of the employees whom the order or decision binds.

(*2*) Where the Provincial Government makes an application in this behalf, the Wage Board may at any time review its order or decision for any sufficient reason and upon hearing all the parties.

Superintendence by Industrial Court.

86J. The Industrial Court shall have superintendence over all Wage Boards and may—

(*a*) call for returns from such Boards ;

(*b*) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided

[1] This sub-section was added by Bom. 74 of 1948, s. 17.

for by or under this Act, and in particular, for securing expeditious disposal of cases;

(*c*) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;

(*d*) settle fees for processes issued by Wage Boards.

Order or decision of Wage Boards not to be called in question.

86K. (*1*) Save as otherwise provided by this Act, no order or decision of a Wage Board shall be called in question in any proceeding in any civil or criminal court.

(*2*) The appellate order or decision of the Industrial Court under section 86G shall have the same force as the original order or decision of the Wage Board which it replaces except that there shall be no further appeal against it.

Transfer of certain disputes to Wage Board.

[1][**86KK.** The Provincial Government may, on the recommendation of the Industrial Court, by an order notified in the *Official Gazette*, direct that any industrial matter, or industrial dispute of the nature mentioned in section 86C which has been referred to the Industrial Court under section 72 or 73, and is pending before it at any time shall be transferred to a Wage Board for disposal or for further disposal from the stage reached before the Industrial Court and thereupon all the provisions of this Act shall apply to that dispute as if it were referred to the Wage Board for decision under section 86C.]

CHAPTER XIIB.

Provincial Wage Board.

Provincial Wage Board.

86L. (*1*) The Provincial Government may by notification in the *Official Gazette*, constitute for all the industries together to which this Act applies a Provincial Wage Board for the Province.

(*2*) In relation to the Provincial Wage Board the provisions of sections 33, 46, 47, 86B to 86K (both inclusive), 87, 90, 97, 98, 115, 118, 119, 119A and 123 shall be read as if the reference therein to a Wage Board were reference to the Provincial Wage Board.

CHAPTER XIII.

Court of Industrial Arbitration.

Duties of industrial Court.

87. It shall be the duty of the Industrial Court—

(*a*) (*i*) to decide appeals under section 20 or 44 from orders passed by the Registrar;

(*ii*) to decide appeals from the decision of the Commissioner of Labour under section 36 or 39 and revision applications under section 37 regarding standing orders;

(*iii*) to decide disputes referred to it under sub-section (*6*) of section 58;

(*iv*) to decide all matters which may be referred to it by a Conciliator or a Board under section 61 or by an arbitrator under section 69;

(*v*) to decide industrial disputes referred to it in accordance with submissions registered under section 66 which provide for such reference to the Industrial Court;

[1] This section was inserted by Bom. 74 of 1948, s. 18.

(*vi*) to decide industrial disputes referred to it under section 71, 72, [1][73 or 73A ;]

(*vii*) to decide matters referred to it under section 90 ;

(*viii*) to decide questions relating to the interpretation of this Act or rules made thereunder and standing orders referred to it under section 91 ;

(*ix*) to decide references made to it under section 99 ;

[2][(*ixa*) to modify an award under section 116-A ;]

(*x*) to decide such other matters as may be referred to it under this Act or the rules made thereunder ;

(*b*) to decide appeals made under section 84 from a decision of a Labour Court ;

[3][(*c*) to decide appeals made under section 86G from an order or decision of a Wage Board.]

Powers of Industrial Court.

88. (*1*) The Industrial Court in appeal may confirm, modify, add to or rescind any decision or order appealed against and may pass such orders therein as it may deem fit.

(*2*) In respect of offences punishable under this Act, the Industrial Court shall have all the powers of the High Court of Judicature at Bombay under the Code of Criminal Procedure, 1898. V of 1898.

(*3*) A copy of the orders passed by the Industrial Court shall be sent to the Labour Court.

Cancellation of registration of union.

89. If in any proceeding the Industrial Court finds that any union was registered by reason of a mistake, misrepresentation or fraud, or that a registered union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union shall be cancelled.

Reference on point of law.

90. [4][(*1*) A Wage Board may refer to the Industrial Court any point of law arising in any proceedings before it under this Act. Any order or decision made or given by the Wage Board in such proceedings shall be in accordance with the decision of the Industrial Court.]

[5](*2*) A civil or criminal Court may refer any matter or any issue in any suit, criminal prosecution or other legal proceeding before it relating to an industrial dispute to the Industrial Court for its decision. Any order passed by such Court in such suit, prosecution or legal proceeding shall be in accordance with such decision.

[5](*3*) The Provincial Government may refer to the Industrial Court any point of law arising in any proceedings held under this Act. The Industrial Court shall not decide any such reference save in open Court and with the concurrence of a majority of the members of the Court present at the hearing of the reference.

Reference regarding interpretation of Act and Rules.

91. The Commissioner of Labour may refer any question relating to the interpretation of this Act or the rules made under this Act to the Industrial Court for its decision.

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[1] These figures, word and letter were substituted for the word and figures "or 73" by Bom. 74 of 1948, s. 19 (*a*).

[2] This sub-clause was inserted, *ibid.*, s. 19 (*b*).

[3] This clause was inserted by Bom. 43 of 1948, s. 17.

[4] This sub-section was inserted, *ibid.*, s. 18 (*1*).

[5] The original sub-sections (*1*) and (*2*) were re-numbered as (*2*) and (*3*), respectively, *ibid.*, s. 18 (*2*).

Procedure before Industrial Court.

92. (*1*) The Industrial Court shall make regulations consistent with the provisions of this Act and the rules made thereunder regulating its procedure.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the formation of Benches consisting of one or more of its members and the exercise by each such Bench of the jurisdiction and powers vested in it :

Provided that no Bench shall consist only of a member who has not been, and at the time of his appointment was not eligible for appointment as, a Judge of a High Court.

(*3*) Every regulaton made under sub-section (*1*) or (*2*) shall be published in the *Official Gazette*.

(*4*) Every proceeding before the Industrial Court shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code.

XLV of 1860.

(*5*) The Industrial Court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid :

Provided that no such costs shall be directed to be paid for the services of any legal adviser engaged by any party.

Execution of order as to costs.

93. An order made by the Industrial Court regarding the costs of a proceeding may be produced before the Court of the Civil Judge within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business or where such place is within the local limits of the ordinary civil jurisdiction of the High Court before the Court of Small Causes of Bombay, and such Court shall execute such order in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

Parties on whom order of Industrial Court binding.

94. An order, decision or award of the Industrial Court shall be binding on—

(*a*) all parties to the industrial dispute who appeared or were represented before it ;

(*b*) all parties who were summoned to appear as parties to the dispute whether they appeared or not, unless the Industrial Court is of opinion that they were improperly made parties ;

(*c*) in the case of an employer who is a party to the proceeding before such Court in respect of the undertaking to which the dispute relates, his successors, heirs or assigns in respect of the undertaking to which the dispute relates ; and

(*d*) in the case of a registered union which is a party to the proceeding before such Court, all persons represented by the union at the date of the award, as well as thereafter.

[1][Order of Industrial Court to be final except on review.

95. [2][(*1*) An employer or an association or a group of employers or a registered union may at any time apply to the Industrial Court for review of a decision or award of the Industrial Court and the Industrial Court may, for any sufficient reason and upon hearing the parties, review the decision or award.]

[3](*2*) No order, decision or award of the Industrial Court shall be called in question in any civil or criminal Court.

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[1] This marginal note was substituted for the original by Bom. 43 of 1948, s. 19.
[2] This sub-section was inserted, *ibid.*
[3] The original section 95 was re-numbered as sub-section (*2*) of that section, *ibid.*

Law declared by Industrial Court to be binding.

[1][95A. The determination of any question of law in any order, decision, award or declaration passed or made by the Full Bench of the Industrial Court, constituted under the regulations made under section 92 shall be recognised as binding and shall be followed in all proceedings under this Act.]

Officer to appear in proceeding before Industrial Court.

96. The Provincial Government may direct any officer to appear in any proceeding before the Industrial Court by giving notice to such Court and on such notice being given such officer shall be entitled to appear in such proceeding.

CHAPTER XIV.

ILLEGAL STRIKES AND LOCK-OUTS.

Illegal strikes.

97. (*1*) A strike shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to an industrial matter specified in Schedule III or regulated by any standing order for the time being in force;

(*b*) without giving notice in accordance with the provisions of section 42;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(*d*) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings;

(*f*) in cases where a special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given;

(*g*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked;

(*h*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 or 73, before the date on which the arbitration proceedings are completed, or the date on which the award of the Labour or Industrial Court, as the case may be, comes into operation, whichever is later;

(*i*) in contravention of the terms of a registered agreement, or a settlement or [2][effective award.]

[3][(*j*) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation;

(*k*) in contravention of the terms of an effective decision of a Wage Board.]

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceeding.

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[1] This section was inserted by Bom. 74 of 1948, s. 20.
[2] These words were substituted for the word "award" by Bom. 43 of 1948, s. 20.
[3] These clauses were inserted, *ibid*.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days' notice of a strike not falling under clause (*a*), (*g*), (*h*) or (*i*) of sub-section (*1*) was given to the employer and the Labour Officer, and the strike was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry, the employees who resume work within forty-eight hours of a Labour Court or the Industrial Court declaring such strike to be illegal shall incur no penalty under this Act in respect of such strike :

Provided that nothing in sub-section (*3*) shall apply to any strike which has within the period of notice been declared under section 99 to be illegal.

Stoppage of work by employees in certain circumstances illegal.

[1][**97A.** A stoppage shall be illegal, if it is commenced or continued,—

(*a*) with the object of compelling the Provincial Government or any public servant to take or abstain from taking any particular course of action in regard to an industrial matter, where the Provincial Government is not an employer in the industry concerned, or

(*b*) if such stoppage is in support of, or in sympathy with, a strike which is illegal under this Act or the Industrial Disputes Act, 1947, or any other law for the time being in force, whether or not in the same industry, occupation or undertaking.]

XIV of 1947.

Illegal lock-outs.

98. (*1*) A lock-out shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to any industrial matter specified in Schedule III or regulated by any standing order for the time being in force ;

(*b*) without giving notice in accordance with the provisions of section 42 ;

(*c*) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area ;

(*d*) in cases where conciliation proceedings in respect of an industrial dispute to which a lock-out relates have commenced, before the completion of such proceedings ;

(*e*) in cases where a special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given ;

(*f*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked ;

(*g*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 or 73, before the date on which the arbitration proceeding is completed or the date on which the award of the Industrial Court comes into operation, whichever is later ;

(*h*) in contravention of the terms of a registered agreement, or a settlement or [2][effective award.]

[3][(*i*) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation ;

(*j*) in contravention of the terms of an effective decision of a Wage Board.]

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months from the completion of such proceeding.

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[1] This section was inserted by Bom. 74 of 1948, s. 21.
[2] These words were substituted for the word "award" by Bom. 43 of 1948, s. 21.
[3] These clauses were inserted, *ibid.*

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days' notice of a lock-out not falling under clause (*a*), (*f*), (*g*) or (*h*) of sub-section (*1*) was given to the employees and the Labour Officer, and the lock-out was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry and the employer discontinues the lock-out within forty-eight hours of a Labour Court or the Industrial Court declaring such lock-out to be illegal, the employer shall incur no penalty under this Act in respect of such lock-out :

Provided that nothing in this sub-section shall apply to any lock-out which has within the period of notice been declared under section 99 to be illegal.

Closure of work by employer in certain circumstances illegal.

[1][**98A.** A closure shall be illegal, if it is commenced or continued with the object of compelling the Provincial Government or any public servant to take or abstain from taking any particular course of action in regard to any industrial matter.]

Reference to Industrial Court for declaration whether strike, [4][,lockout, closure or stoppage] is illegal.

99. (*1*) The Provincial Government may make a reference to the Industrial Court for a declaration whether any proposed [2][strik, lock-out, closure as stoppage will be illegal.]

(*2*) No declaration shall be made under this section save in open Court.

[3][(*3*) The declaration made under sub-section (*1*) shall be recognised or binding and shall be followed in all proceedings under this Act.]

CHAPTER XV.

COURT OF ENQUIRY.

Court of Enquiry : constitution, duties and powers of—

100. (*1*) The Provincial Government may constitute one or more Courts of Enquiry consisting of such number of persons as the Provincial Government may think fit.

(*2*) A Court of Enquiry shall inquire into such industrial matters, as may be referred to it by the Provincial Government, including any matter pertaining to conditions of work or relations between employers and employees in any industry, and any aspect of any industrial dispute.

(*3*) Every proceeding before a Court of Enquiry shall be deemed to be a judicial proceeding within the meaning of sections 192, 193, and 228 of the Indian Penal Code. XLV of 1860

CHAPTER XVI.

PENALTIES.

Employer not to dismiss, reduce or punish an employee.

101. (*1*) No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a registered union or a union which has applied for being registered under this Act ; or

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[1] This section was inserted by Bom. 74 of 1948, s. 22.
[2] These words were substituted for the original, *ibid*, s. 23 (*a*).
[3] This sub-section was added, *ibid*, s. 23 (*b*).
[4] These words were substituted for the words " or lock-out ", *ibid*, s. 23 (*c*).

(*b*) is entitled to the benefit of a registered agreement or a settlement, submission or award ; or

(*c*) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in[1] [,or takes part in any capacity in, or in connection with] a proceeding under this Act ; or

(*d*) is an officer or member of an organisation the object of which is to secure better industrial conditions ; or

(*e*) is an officer or member of an organisation which is not declared unlawful ; or

(*f*) is a representative of employees ; or

(*g*) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.

(*2*) No employer shall prevent any employee from returning to work after a strike, arising out of an industrial dispute relating to any matter specified in Schedule I, II or III, which has not been held by a Labour Court or the Industrial Court to be illegal unless—

(*i*) the employer has offered to refer the issues on which the employee has struck work to arbitration under this Act, and the employee has refused arbitration ; or

(*ii*) the employee not having refused arbitration, has failed to offer to resume work within one month of a declaration by the Provincial Government that the strike has ended.

(*3*) Whoever contravenes the provisions of sub-section (*1*) or (*2*) shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*4*) The Court trying an offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

(*5*) In any prosecution under this section the burden of proving that the dismissal, discharge, reduction or punishment of an employee by an employer was not in contravention of the provisions of this section shall lie on the employer.

Penalty for declaring illegal lock-out [5][or illegal closure.]

102. Any employer who has commenced a lock-out [2][or a closure] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and, in the case of the lock-out [3][or the closure, as the case may be,] being continued after the lapse of forty-eight hours after it has been held or declared to be illegal, with an additional fine which may extend to Rs. 5,000 for every day during which such lock-out [4][or closure] continues after such conviction.

Penalty for declaring or commencing illegal strike [8][or illegal stoppage.]

103. Subject to the provisions of sub-section (*3*) of section 97, any employee who has gone on strike [6][or stoppage] or who joins a strike [7][or a stoppage] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine, which may extend to Rs. 10 and, in the case of his continuing on strike [9][or on stoppage, as the case may be,] after the lapse of forty-eight hours after it is held or declared to be illegal, with an additional fine

[1] These words were inserted by Bom. 74 of 1948, s. 24.
[2] These words were inserted, *ibid.*, s. 25 (*a*).
[3] These words were inserted, *ibid.*, s. 25 (*b*).
[4] These words were inserted, *ibid.*, s. 25 (*c*).
[5] These words were inserted, *ibid.*, s. 25 (*d*).
[6] These words were inserted, *ibid.*, s. 26 (*a*).
[7] These words were inserted, *ibid.*, s. 26 (*b*).
[8] These words were inserted, *ibid.*, s. 26 (*c*).
[9] These words were inserted, *ibid.*, s. 26 (*c*).

which may extend to Re. 1 per day for every day during which [1][such strike or stoppage continues after such conviction] subject to a maximum of Rs. 50.

Penalty for instigating, etc., illegal strikes [2][lock-outs, closures and stoppages.]

104. Any person who instigates or incites others to take part in, or otherwise acts in furtherance of a lockout [3][or a closure] for which an employer is punishable under section 102 or a strike [4][or a stoppage] for which any employee is punishable under section 103, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both :

Provided that no person shall be punished under this section where the Court trying the offence is of opinion that in the circumstances of the case a reasonable doubt existed at the time of the commission of the offence about the legality of the [5][strike, lockout, closure or stoppage], as the case may be.

Explanation I.—For the purposes of this section, a person who contributes, collects or solicits funds for the purposes of any such [5][strike, lock-out, closure or stoppage] shall be deemed to act in furtherance thereof.

Explanation II.—A person shall be deemed to have committed an offence under this section if before an illegal [5][strike, lock-out, closure or stoppage] has commenced, he has instigated or incited others to take part in, or otherwise acted in furtherance of such [5][strike, lock-out, closure or stoppage.]

Penalty for disclosing confidential information.

105. If a Conciliator, a member of a Board or a Labour Officer or any person present at or concerned in any conciliation proceeding wilfully discloses any information or the contents of any document in contravention of the provisions of this Act, he shall, on conviction, on a complaint made by the party who gave the information or produced the document in such proceeding be punishable, with fine which may extend to Rs. 1,000.

Penalty for illegal change.

106. (*1*) Any employer who makes an illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*2*) Any employer who contravenes the provisions of section 47 shall, on conviction, be punishable with imprisonment which may extend to three months, or for every day on which the contravention continues with fine which may extend to Rs. 5,000, or with both.

(*3*) The Court convicting any person under sub-section (*1*) or (*2*) may direct such person to pay such compensation as it may determine to any employee directly and adversely affected by the change in issue.

Penalty for failure to appoint members on Joint Committee.

[6][**106A.** Any employer who fails to appoint members of a Joint Committee to be constituted on an application made by the union within the period specified in the order made under sub-section (*1*) of section 49 shall, on conviction, be punishable with fine which may extend to fifty rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure continues.]

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[1] These words were substituted for the original, by Bom. 74 of 1948, s. 26 (*d*).
[2] These words were substituted for the original, *ibid*, s. 27 (*d*).
[3] These words were inserted, *ibid*., s. 27 (*a*).
[4] These words were inserted, *ibid*., s. 27 (*b*).
[5] These words were substituted for the original, *ibid*., s. 27 (*c*).
[6] This section was inserted by Bom. 43 of 1948, s. 22.

107. Any employer who acts in contravention of a standing order settled under Chapter VII shall, on conviction, be punishable with fine which may extend to Rs. 500 and in the case of a continuing contravention of such standing order, with an additional fine which may extend to Rs. 125 per day for every day during which such contravention continues. Penalty for contravention of a standing order.

108. Any person who wilfully refuses entry to a Labour Officer or such officer of an approved union as is authorised under section 25 to any place which he is entitled to enter, or fails to produce any document which he is required to produce, or fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to Rs. 500. Penalty for obstructing person from carrying out duties.

109. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to Rs. 100 and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to Rs. 200. Penalties for offences not provided for elsewhere.

110. The amount of any fine imposed and any compensation directed by any Court to be paid under this Act shall be recoverable as arrears of land revenue. Recovery of fines and compensation.

CHAPTER XVII.

RECORD OF INDUSTRIAL CONDITION.

111. The Provincial Government may in respect of any industry— Record of industrial matters, etc.

(*a*) maintain in the prescribed manner a record of industrial matters covered by the Schedules;

(*b*) require any employer or employers generally to maintain and submit copies of a record in such form as may be prescribed of—

(*i*) data relating to plant, premises and manufacture,

(*ii*) other industrial transactions and dealings,

which in the opinion of the Provincial Government are likely to affect the matters specified in clause (*a*).

112. (*1*) For the purpose of verifying the accuracy of any records maintained by an employer under the provisions of section 111, an officer authorised by the Provincial Government may, subject to the prescribed conditions hold an inquiry and may require any person to, and such person thereupon shall, produce any relevant record or document in his possession and may after reasonable notice, at any reasonable time enter any premises wherein he believes such record or document to be, and may ask any question necessary for verifying such records: Inquiry for verification of records.

Provided that where such premises are not the usual business premises of a person, such officer shall not without the previous permission of the Provincial Government enter them under this sub-section.

(*2*) Any proceeding held by him for the purpose of obtaining information for such record shall be deemed to be a judicial proceeding within the meaning of section 192 of the Indian Penal Code. XLV of 1860.

CHAPTER XVIII.

MISCELLANEOUS

Modifications in Schedules.

113. The Provincial Government may, by notification in the *Official Gazette*, at any time, make any additions to or alterations in the industrial matters specified in Schedule I, II or III or may delete therefrom any such matter:

Provided that before making any such addition, alteration or deletion, a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the Provincial Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.

Agreement, etc., on whom binding.

114. (*1*) A registered agreement, or a settlement, submission or award shall be binding upon all persons who are parties thereto:

Provided that—

(*a*) in the case of an employer, who is a party to such agreement, settlement, submission or award, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement, submission or award is made, and

(*b*) in the case of a registered union which is a party to such agreement, settlement, submission or award, all persons who were members of such union at the date of such agreement, settlement, submission or award or who become members of the union thereafter,

shall be bound by such agreement, settlement, submission or award.

(*2*) In cases in which a Representative Union is a party to a registered agreement, or a settlement, submission or award, the Provincial Government may, after giving the parties affected an opportunity of being heard, by notification in the *Official Gazette*, direct that such agreement, settlement, submission or award shall be binding upon such other employers and employees in such industry or occupation in that local area as may be specified in the notification:

Provided that before giving a direction under this section the Provincial Government may, in such cases as it deems fit, make a reference to the Industrial Court for its opinion.

(*3*) A registered agreement entered into by the representatives of the majority of the employees affected or deemed to be affected under section 43 by a change shall bind all the employees so affected or deemed to be affected.

Order or decision of [1][Wage Board or Labour Court] on whom binding.

115. An order or decision of a [1][Wage Board or Labour Court] against an employer shall bind his successors in interest, heirs and assigns in respect of the undertaking as regards which it is made or given and such order or decision against a registered union shall bind all persons who were members of the union at the date of the order or decision or who become members of the union thereafter.

Agreement, etc., when to cease to have effect.

116. (*1*) A registered agreement, or a settlement or award shall cease to have effect on the date specified therein or if no such date is specified therein, on the expiry of the period of two months from the date on which notice in writing to terminate such agreement, settlement or award, as the case may be, is given in the prescribed manner by any of the parties thereto to the other party:

Provided that no such notice shall be given till the expiry of three months after the agreement, settlement or award comes into operation.

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[1] These words were substituted for the original by Bom. 43 of 1948, s. 23.

(*2*) Nothing in this section shall prevent the terms of a registered agreement or a settlement being changed or modified by mutual consent of the parties affected thereby.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), if a registered agreement, or a settlement or award provides that it shall remain in force for a period exceeding one year, it may after the expiry of one year from the date of its commencement be terminated by either party thereto giving two months' notice in the prescribed manner to the other party.

(*4*) The party giving notice under sub-section (*1*) or (*3*) shall send a copy of it to the Registrar and the Labour Officer of the local area concerned.

(*5*) If a registered agreement, or a settlement or award is terminated under sub-section (*1*) or (*3*) or if the terms of a registered agreement or a settlement are changed or modified by mutual consent, notice of such termination, change or modification shall be given by the parties concerned to the Registrar and the Labour Officer. The Registrar shall enter the notice of such termination, change or modification in a register kept for the purpose.

Explanation.—For the purposes of this section, parties who shall be competent to terminate a registered agreement, or a settlement or award, or to change or to modify the terms of a registered agreement or a settlement and who shall give notice of such termination, change or modification under sub-section (*5*) shall be the employer who has signed the agreement or settlement or who is a party to the award or the heirs, successors or assigns of such employer in respect of the undertaking concerned and the representative of the employees affected by the agreement, settlement or award.

Modification of award.

[1]**116A** (*1*) Any party who under the provisions of section 116 is entitled to give notice of the termination of an award may instead of giving such notice, apply after the expiry of the period specified in sub-section (*2*), to the Industrial Court, the Labour Court or the Wage Board making the award, for its modification.

(*2*) Such application in the case of an award,—

(*a*) which does not specify a date on which it shall cease to have effect shall not be made until the expiry of the period of two months from the date on which notice can be given to terminate the award under section 116;

(*b*) which provides that it shall remain in force for a period exceeding one year, shall not be made until the expiry of one year from the date of its commencement.

(*3*) On such application being made, the Industrial Court, the Labour Court or the Wage Board, as the case may be, may, after hearing the parties and taking such evidence as it thinks fit, modify the award.

(*4*) Where an application for the modification of an award under sub-section (*1*) is made, such application shall not in any way affect the binding effect of such award in regard to the matters determined therein until it is modified.

(*5*) Nothing in this section shall affect the right of any party to terminate such award in accordance with the provisions of section 116.]

[1] This section was inserted by Bom. 74 of 1948, s. 28.

Liability of the executive of a union.

117. Where anything is required to be done by any union under this Act, the person authorised in this behalf by the executive of the union, and where no person is so authorised every member of the executive of the union, shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purposes of this section, the executive of a union means the body by whatever name called to which the management of the affairs of the union is entrusted.

Powers of certain authorities to summon witnesses, etc.

118. (*1*) For the purpose of holding an inquiry or proceeding under this Act, the Registrar, a Conciliator, [1][a Wage Board], Board, Labour Court in its ordinary jurisdiction, a Court of Enquiry and the Industrial Court shall have the same powers as are vested in Courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examinations of witnesses.

(*2*) The Registrar, a Conciliator [1][a Wage Board] or Board shall also have such further powers as may be prescribed.

(*3*) For the purpose of obtaining the information necessary for compiling and maintaining the record under Chapter XVII the officer authorised under section 112 shall have the powers specified in clauses (*b*) and (*c*) of sub-section (*1*) and in sub-section (*2*).

Offences under section 104 cognizable.

[2][**118A.** The offence under section 104 shall be cognizable.]

Certain officers to be public servants.

119. The Registrar, an Assistant Registrar, a Conciliator, a Labour Officer, an Assistant Labour Officer, an arbitrator, [3][a member of a Wage Board] a member of a Board, an officer authorised under section 112, a Judge of a Labour Court, a member of the Industrial Court or a Court of Enquiry and a member of the staff of any of the said Courts shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Contempt of Industrial Court, Labour Courts and Wage Boards relating to omission to produce documents, etc.

[4][**119A.** (*1*) If any person—

(*a*) when ordered by the Industrial Court or a Labour Court or a Wage Board to produce or deliver up any document, being legally bound intentionally omits to do so ; or

(*b*) when required by the Industrial Court or a Labour Court or a Wage Board to bind himself by an oath or affirmation to state the truth refuses to do so ;

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[1] These words were inserted by Bom. 43 of 1948, s. 24.

[2] This section was inserted, *ibid.*, s. 25.

[3] These words were inserted, *ibid.*, s. 26.

[4] Sections 119-A and 119-B were inserted, *ibid.*, s. 27.

(*c*) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court or a Wage Board refuses to answer any question demanded of him touching such subject by such Court or Board; or

(*d*) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court or a Wage Board at any stage of its judicial proceeding.

he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(*2*) If any person refuses to sign any statement made by him when required to do so by the Industrial Court or a Labour Court or a Wage Board, he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(*3*) If any offence under sub-section (*1*) or (*2*) is committed in the view or presence of the Industrial Court or a Labour Court or a Wage Board, as the case may be, such Court or Wage Board may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898, forward the case to a magistrate having jurisdiction to try the same and may require security to be given for the appearance of the accused person before such magistrate or, if sufficient security is not given, shall forward such person in custody to such magistrate. The magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person is the manner provided in the said Code of Criminal Procedure.

V of 1898.

119B. (*1*) If any person commits any act or publishes any writing which is calculated to improperly influence the Industrial Court, or a Labour Court or a Wage Board or to bring such Court, Board, or a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court or Board, such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be.

Other kinds of contempts of Industrial Court, Labour Courts and Wage Boards.

(*2*) In the case of contempt of itself the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(*3*) In the case of contempt of a Wage Board or a Labour Court, such Board or Court shall record the facts constituting such contempt and make a report in that behalf to the Industrial Court; and thereupon the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

(*4*) When any intimation or report in respect of any contempt is received by the High Court under sub-section (*2*) or (*3*), the High Court shall deal with such contempt as if it were contempt of itself and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.]

VII of 1929.

120. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation or arbitration proceeding shall be held under this Act relating to any matter or trade dispute which has been referred to and is pending before a Court of Enquiry or Board of Conciliation under the said Act.

Provisions of Act VII of 1929 not to be affected.

Repeal of Bom. IX of 1934.

121. The Bombay Trade Disputes Conciliation Act, 1934, shall cease to apply in a local area to any industry in respect of which the provisions of this Act have been brought into force in such local area. Bom. IX of 1934.

Repeal of Bom. XXV of 1938.

122. The Bombay Industrial Disputes Act, 1938, is hereby repealed : Bom. XXV of 1938.

Provided that—

(*a*) every appointment, order, rule, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, regulation, notification or notice made, issued or given under this Act ;

(*b*) any standing order settled, agreement registered, changes which have come into operation, settlements recorded or registered, submissions registered, awards made or orders passed by the Industrial Court, under the provisions of the Act so repealed shall be deemed to have been settled, registered, to have come into operation, to have been recorded, made or passed by the appropriate authority under the corresponding provisions of this Act ;

(*c*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall, so far as it is not inconsistent with the provisions of this Act, be made, instituted and availed of as if the said Act had not been repealed and continues in operation ;

(*d*) any proceedings pending before the Industrial Court, conciliation proceedings, or any proceedings relating to the trial of offences punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed and continues in operation ; and any penalty imposed in such proceedings shall be recorded under the Act so repealed ;

(*e*) a registered union or a Representative Union or a Qualified Union or other representatives elected, entitled to appear or act as the representatives of employees under the Act so repealed shall, notwithstanding the repeal of the said Act, continue to act as the representatives of employees in any proceedings under this Act for a period of three months from the date on which this Act comes into force.

Rules.

123. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters namely :—

(*a*) the authority to be prescribed under sub-clause (*c*) of clause (*14*) of section 3 ;

(*b*) the manner in which the panels representing the interests of employers and employees shall be constituted and the manner in which vacancies in the Board of Conciliation shall be filled up under section 7 ;

(*c*) the qualifications for being eligible to be appointed to preside over Labour Courts under section 9 ;

(*d*) the form in which the registers of unions and the approved list shall be maintained under section 12 ;

(*e*) the form of application under sub-sections (*1*), (*2*) and (*3*) of section 13 ;

(*f*) the fee to be paid, and the form of certificate of registration to be issued, under section 14 ;

(*g*) the fee to be paid under sub-section (*1*), and the manner of publication under sub-section (4), of section 16 ;

(*h*) the fee to be paid under sub-section (*1*) of section 17 ;

(*i*) the dates on which and the manner in which returns shall be submitted under section 19 ;

(*j*) the manner of publication of orders under section 21 ;

(*k*) the manner of registration of a union for more local areas than one under section 22 ;

(*l*) the form of application under section 23 ;

(*m*) the officers [1][and members of approved unions] to be authorised under section 25 and the manner in which and the conditions subject to which the rights under that section shall be exercised ;

(*n*) the fees to be prescribed under sub-section (*6*) of section 26 ;

(*o*) the authority to be prescribed under clause (*b*) of sub-section (*2*), and the manner of determining the representative of employers under sub-section (*3*), of section 27 ;

(*p*) the manner in which the persons shall be elected under sub-section (*1*), recalled under sub-section (*4*), the period for which and the manner in which they shall function and the manner in which vacancies shall be filled under sub-section (*5*), of section 28 ;

(*q*) the manner of authorising a Qualified or Primary Union under clause (*iii*) of, the manner of accepting the terms of an agreement or settlement under proviso *Secondly* and the number of representatives and the manner of their election under proviso *Thirdly* to, section 30 ;

(*r*) the conditions subject to which the powers of entry and inspection shall be exercised under sub-section (*2*) of section 34 ;

(*s*) the manner of submission of draft standing orders under sub-section (*1*), and the manner of consulting the representative of employees and other interests under sub-section (*2*), of section 35 ;

(*t*) the form of notice and the other persons to be prescribed under sub-sections (*1*) and (*2*), and the manner of approach and the period to be prescribed under the proviso to sub-section (*4*), of section 42 ;

(*u*) the other persons to be prescribed under sub-section (*3*) of section 43 ;

(*v*) the manner of forwarding the memorandum of agreement under sub-section (*1*) of section 44 ;

(*w*) [2][the number of members of a Joint Committee, the manner of nomination of members by the union and the manner of giving copies of orders under sub-section (*1*), and] the appointment of the chairman and the manner in which he shall perform his duties under sub-section (*2*), of section 49 ;

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[1] These words were inserted by Bom. 43 of 1948, s. 28 (*i*).
[2] This portion was substituted for the original, *ibid*, s. 28 (*ii*).

(*x*) the manner of conducting the proceedings of a Joint Committee under sub-section (*2*) of section 50 ;

(*y*) the manner in which the memorandum of agreement shall be forwarded under sub-section (*1*), the form in which a special intimation shall be forwarded under sub-section (*2*), and the other persons to be prescribed under sub-section (*4*), of section 52 ;

(*z*) the form in which the statement shall be forwarded under sub-section (*1*) of section 54 ;

(*aa*) the manner of holding conciliation proceedings under sub-section (*1*) of section 56 ;

(*ab*) the form in which the memorandum of settlement shall be drawn up, and the manner of its publication under sub-section (*1*) of section 58 ;

(*ac*) the manner of giving notice under sub-section (*2*) of section 59 ;

(*ad*) the procedure to be followed by a Conciliator or Board under sub-section (*1*) of section 60 ;

(*ae*) the manner of publication of a submission under sub-section (*3*) of section 66 ;

(*af*) the modifications to be prescribed under sub-section (*2*), and the manner of making the employers parties to arbitration under sub-section (*3*), of section 72 ;

(*ag*) the manner of publication under sub-section (*2*) of section 74 ;

(*ah*) the form and manner in which an application shall be made under sub-section (*2*) of section 79 ;

[1][(*aha*) the other industrial matters and disputes under sub-section (*1*) of section 86C ;

(*ahb*) the rules of procedure to be followed by a Wage Board under section 86E ;]

(*ai*) the manner in which the record shall be maintained under section 111 ;

(*aj*) the conditions to be prescribed under sub-section (*1*) of section 112 ;

(*ak*) the manner of giving notice under section 116 ;

(*al*) the further powers of the Registrar, a Conciliator, [2][Wage Board] or Board under sub-section (*2*) of section 118 ;

(*am*) any other matter which is required to be or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

SCHEDULE I.

(SECTION 35.)

1. Classification of employees, e.g., permanent, temporary, apprentices, probationers, badlis, etc.

2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.

3. Notice to be given to employees of starting, alteration or discontinuance of two or more shifts in a department or departments.

4. Closure or reopening of a department or a section of a department or the whole of the undertaking.

5. Attendance and late coming.

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[1] These clauses were inserted, by Bom. 43 of 1948, s. 28 (*iii*).

[2] These words were inserted, *ibid.*, s. 28 (*iv*)

6. Leave : conditions, procedure and authority to grant.

7. Holidays : procedure and authority to grant.

8. Lability to search and entry into premises by certain gates.

9. Temporary stoppages of work, including playing off, and rights and liabilities of employers and employees arising therefrom.

10. Termination of employment: notice to be given by employer and employee.

11. Suspension or dismissal for misconduct, suspension pending inquiry into alleged misconduct and the acts or omissions which constitute misconduct.

12. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.

SCHEDULE II.

(SECTION 42.)

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed in any occupation or process or department or departments or in a shift not due to *force majeure*.

2. Permanent or semi-permanent increase in the number of persons employed or to be employed in any occupation or process or department or departments.

3. Dismissal of any employee except as provided for in the standing orders applicable under this Act.

4. Rationalisation or other efficiency systems of work.

5. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders applicable under this Act.

6. Withdrawal of recognition to unions of employees.

7. Withdrawal of any customary concession or privilege or change in usage.

8. Introduction of new rules of discipline or alteration of existing rules and their interpretation, except in so far as they are provided for in the standing orders applicable under this Act.

9. Wages including the period and mode of payment.

10. Hours of work and rest intervals.

SCHEDULE III.

(SECTION 42.)

(1) Adequacy and quality of materials and equipment applied to the workers.

(2) Assignment of work and transfer of workers within the establishment.

(3) Health, safety and welfare of employees (including water, dining sheds, rest sheds latrines, urinals, creches, restaurants, and such other amenities).

(4) Matters relating to trade union organization, membership and levies.

(5) Construction and interpretation of awards, agreements and settlements.

(6) Employment including

(*i*) reinstatement and recruitment;

(*ii*) unemployment of persons previously employed in the industry concerned.

(7) Payment of compensation for stoppages.